

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE - OPELOUSAS DIVISION**

**ALBERTHA GARRETT**

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**CIVIL ACTION NO. 2:07-CV-1975**

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**Versus**

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**JUDGE RICHARD HAIK**

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**STATE FARM FIRE AND  
CASUALTY COMPANY**

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**MAGISTRATE JUDGE METHVIN**

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**PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION TO STRIKE DEFENDANT,  
STATE FARM FIRE & CASUALTY COMPANY'S STATEMENT OF UNCONTESTED  
FACTS IN SUPPORT OF MOTION IN LIMINE/MOTION TO EXCLUDE COST  
CONTROL ESTIMATE**

This matter is set for trial before this Honorable Court on July 20, 2009. On April 27, 2009, Defendant, State Farm Fire and Casualty Company ("State Farm") filed a Motion in Limine/Motion to Exclude the testimony of Kermith Sonnier and the September 20, 2007 Cost Control estimate. Defendant attached a lengthy statement of uncontested facts in support of said motion. The Statement of Uncontested Facts in Support of Motion in Limine, Motion to Exclude Cost Control Estimate should be stricken as it is improper in the context of the Defendant's Motion in Limine/Motion to Exclude. Further, the Statement of Uncontested Facts is improper as there is no basis provided for the "uncontested facts" contained therein.

It appears that the Defendant is attempting a back door approach to a summary judgment by including the unsupported statement of uncontested facts with it's Motion in Limine/Motion to Exclude. The deadline for dispositive motions (March 18, 2009) has long passed. As the Court is aware, the Defendant filed a Motion for Leave to File Summary Judgment on Plaintiff's Bad Faith Claims on March 26, 2009, subsequent to the dispositive motion deadline. The Court denied said motion. Therefore, the Defendant's back door approach to a summary judgment is improper and the Uncontested Facts in Support of Motion in Limine/Motion to Exclude Cost Control Estimate should be stricken.

In the alternative, if the Court should find the Statement of Uncontested Facts is proper in the context of Defendant's Motion in Limine/Motion to Exclude, the same should never the less be stricken as the "uncontested facts" are for the most part unsupported, with no basis provided for the same. The Defendant did not attach any affidavits to it's motion. Further, it has not taken any depositions in this matter; not of either the Plaintiff or Kermith Sonnier whom it seeks to exclude.

Wherefore, for all the foregoing reasons, the Plaintiff, Albertha Garrett, respectfully requests that the Court grant her Motion to Strike Defendant, State Farm Fire & Casualty Company's Statement of Uncontested Facts In Support of Motion in Limine/Motion to Exclude Cost Control Estimate.

Respectfully submitted,

LUNDY, LUNDY, SOILEAU & SOUTH, LLP

/s/ Jackey W. South  
HUNTER W. LUNDY, #8938  
JACKEY W. SOUTH, #21125  
LUNDY, LUNDY, SOILEAU & SOUTH, LLP  
501 Broad Street  
P.O. Box 3010  
Lake Charles, LA 70602  
(337) 439-0707 - Telephone  
(337) 439-1029 - Facsimile

**CERTIFICATE OF SERVICE**

I hereby certify that on May \_\_\_\_, 2009, a copy of the foregoing Plaintiff's Memorandum in Support of Her Motion to Strike Defendant, State Farm Fire & Casualty Company's Statement of Uncontested Facts in Support of Motion in Limine/motion to Exclude Cost Control Estimate was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record:

Todd M. Ammons [tmammons@ssvcs.com](mailto:tmammons@ssvcs.com), [cbjenigan@ssvcs.com](mailto:cbjenigan@ssvcs.com), [jblavergne@ssvcs.com](mailto:jblavergne@ssvcs.com)  
David L. Morgan [dlmorgan@ssvcs.com](mailto:dlmorgan@ssvcs.com), [klcormier@ssvcs.com](mailto:klcormier@ssvcs.com)

/s/ Jackey W. South  
JACKEY W. SOUTH, #21125  
LUNDY, LUNDY, SOILEAU & SOUTH, LLP  
501 Broad Street  
P.O. Box 3010  
Lake Charles, LA 70602  
(337) 439-0707 - Telephone  
(337) 439-1029 - Facsimile